
By: **Delegates Morhaim, Busch, Barve, Jones, Hurson, Owings, Bromwell,
Bronrott, Cardin, V. Clagett, Donoghue, Goldwater, Hammen, Hubbard,
Kach, Lee, Moe, Murray, Nathan-Pulliam, Oaks, Rosenberg, Rudolph,
Smigiel, Sophocleus, Weldon, and Zirkin**

Introduced and read first time: February 5, 2004

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Reciprocal Preference for Resident Offerors**

3 FOR the purpose of authorizing a unit of State government to give certain preferences
4 to competitive sealed proposals from certain offerors under certain
5 circumstances; providing that, at the request of the unit, nonresident offerors
6 must give certain information concerning the treatment of nonresident offerors
7 in certain states; defining certain terms; and generally relating to the granting
8 of reciprocal preferences for resident offerors in awarding procurement
9 contracts.

10 BY repealing and reenacting, with amendments,
11 Article - State Finance and Procurement
12 Section 14-401
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2003 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - State Finance and Procurement**

18 14-401.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) "Preference" includes:

21 (i) a percentage preference;

22 (ii) an employee residency requirement; or

23 (iii) any other provision that favors a resident over a nonresident.

1 (3) "Resident bidder" means a bidder whose principal office is located in
2 the State.

3 (4) "RESIDENT OFFEROR" MEANS AN OFFEROR WHOSE PRINCIPAL
4 OFFICE IS LOCATED IN THE STATE.

5 (5) "RESPONSIVE PROPOSAL" MEANS A PROPOSAL THAT CONFORMS IN
6 ALL MATERIAL RESPECTS TO THE REQUEST FOR PROPOSALS.

7 [(4)] (6) "Services" means services, architectural services, construction
8 related services, engineering services, or energy performance contract services, all as
9 defined in § 11-101 of this article.

10 (b) When a unit uses competitive sealed bidding to award a procurement
11 contract, the unit may give a preference to the resident bidder who submits the lowest
12 responsive bid from a resident bidder if:

13 (1) the resident bidder is a responsible bidder;

14 (2) a responsible bidder whose principal office or operation is in another
15 state submits the lowest responsive bid;

16 (3) the state in which the nonresident bidder's principal office is located
17 or the state in which the nonresident bidder has its principal operation through which
18 it would provide supplies or services gives a preference to its residents; and

19 (4) a preference does not conflict with a federal law or grant affecting the
20 procurement contract.

21 (c) WHEN A UNIT ISSUES A REQUEST FOR PROPOSALS TO AWARD A
22 PROCUREMENT CONTRACT, THE UNIT MAY GIVE A PREFERENCE TO THE RESIDENT
23 OFFEROR WHO SUBMITS THE LOWEST RESPONSIVE PROPOSAL FROM A RESIDENT
24 OFFEROR IF:

25 (1) THE RESIDENT OFFEROR IS A RESPONSIBLE OFFEROR;

26 (2) A RESPONSIBLE OFFEROR WHOSE PRINCIPAL OFFICE OR OPERATION
27 IS IN ANOTHER STATE SUBMITS THE LOWEST RESPONSIVE PROPOSAL;

28 (3) THE STATE IN WHICH THE NONRESIDENT OFFEROR'S PRINCIPAL
29 OFFICE IS LOCATED OR THE STATE IN WHICH THE NONRESIDENT OFFEROR HAS ITS
30 PRINCIPAL OPERATION THROUGH WHICH IT WOULD PROVIDE SUPPLIES OR
31 SERVICES GIVES A PREFERENCE TO ITS RESIDENTS; AND

32 (4) A PREFERENCE DOES NOT CONFLICT WITH A FEDERAL LAW OR
33 GRANT AFFECTING THE PROCUREMENT CONTRACT.

34 (D) (1) At the request of the unit, a nonresident bidder OR NONRESIDENT
35 OFFEROR submitting a proposal for a State project shall provide a copy of the current

1 statute, resolution, policy, procedure, or executive order that pertains to the
2 treatment of nonresident bidders OR NONRESIDENT OFFERORS by:

3 (i) the state in which the nonresident bidder's OR NONRESIDENT
4 OFFEROR'S principal office is located; and

5 (ii) the state in which the nonresident bidder OR NONRESIDENT
6 OFFEROR has its principal operation through which it would provide supplies or
7 services.

8 (2) A unit may give a preference under this section that is identical to
9 any of the following preferences, or any combination of them:

10 (i) the preference that the state in which the nonresident bidder's
11 OR NONRESIDENT OFFEROR'S principal office is located gives to its residents; or

12 (ii) the preference that the state in which the nonresident bidder
13 OR NONRESIDENT OFFEROR has its principal operation through which it would
14 provide supplies or services.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect October 1, 2004.